

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAVIER FLORES-ALDAPE,

Plaintiff,

Case No. 15-cv-13286
Hon. Matthew F. Leitman

v.

FATIN SHAWKI KAMASH,

Defendant.

/

ORDER GRANTING EX PARTE TEMPORARY RESTRAINING ORDER

On September 16, 2015, Plaintiff Javier Flores-Aldape (“Plaintiff”) filed (1) a “Verified Petition for Return of Child to Plaintiff/Petitioner in Mexico, Including Provisional Orders, and *Ex Parte* Temporary Restraining Order, Application for Warrant Seeking Physical Custody and an Expedited Hearing” (the “Verified Petition”) (ECF #1, Pg. ID 1); and (2) an “*Ex Parte* Motion Under the Hague Convention for Entry of an Order of a TRO, Application for Warrant Seeking Physical Custody of Child, and Scheduling of an Expedited Hearing; and Federal Rule 65(b) Certificate of Counsel” (the “Motion”) (ECF #2, Pg. ID 33). The Court, having reviewed the Verified Petition, the Motion, and the record, and pursuant to Federal Rule of Civil Procedure 65, hereby **GRANTS** Plaintiff a temporary restraining order as follows:

1. This Court finds that *ex parte* emergency relief is appropriate under the circumstances presented here. Specifically, the record contains evidence indicating that in the first week of August 2015, Plaintiff's wife, Defendant Fatin Shawki Kamash ("Defendant"), under possibly false pretenses, removed their one-and-one-half-year-old daughter (the "Child"), without Plaintiff's acquiescence or consent, from their familial home in Mexico and retains the Child in the United States. Given that Plaintiff has submitted evidence that suggests Defendant has wrongfully abducted and retains the Child, and some evidence that Defendant may take the child to Canada to avoid process, there exists some appreciable risk that Defendant will further secret the Child and herself, in violation of the Hague Convention, and not appear before this Court to resolve the claim presented by Plaintiff. Accordingly, and pursuant to Federal Rule of Civil Procedure 65(b), the Court finds it appropriate to grant this Order without notice.
2. Defendant is hereby prohibited from removing the Child from the jurisdiction of this Court until the earlier of either (a) fourteen (14) days, or (b) until this Court issues a further order allowing removal. No person acting in concert or participating with Defendant (including Defendant's father, Shawki Khalil Kamash), shall take any action to remove the Child from the jurisdiction of this Court.

3. A preliminary injunction hearing on the merits of the Verified Petition is hereby scheduled to be held on **September 23, 2015 at 9:30 a.m.** in **Courtroom 242.**
4. Defendant is hereby directed to show cause at the hearing scheduled in paragraph (3) above why the Child should not be returned to Mexico, accompanied by Plaintiff, where a custody determination can be made under Mexican law, and why the other relief requested in the Verified Petition should not be granted.
5. Plaintiff is hereby directed to serve Defendant personally with this Order, as well as the Verified Petition and the Motion filed by Plaintiff in this case, and to file proof of service with this Court.
6. Plaintiff and the Child, along with Defendant, if she so desires, are granted leave to return to Mexico immediately.

IT IS SO ORDERED at 4:30 p.m. this 17th day of September.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: September 17, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 17, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(313) 234-5113